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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor.

REVENUE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 11th January, 2022.

GUJARAT ORDINANCE NO. 1 OF 2022.

AN ORDINANCE

further to amend the Gujarat Land Grabbing (Prohibition) Act, 2020.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Land Grabbing (Prohibition) Act, 2020;

Guj. 11 of
2020.

NOW THEREFORE, in exercise of the powers conferred on him by clause (1) of Article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. Short title and commencement.- (1) This Ordinance may be called the Gujarat Land Grabbing (Prohibition) (Amendment) Ordinance, 2022.

(2) It shall come into force at once.

Guj. 11 of 2020.

2. Guj. 11 of 2020 to be temporarily amended.- During the period of operation of this Ordinance, the Gujarat Land Grabbing (Prohibition) Act, 2020, (hereinafter referred to as “the principal Act) shall have effect subject to the amendments specified in sections 3 to 5.

3. Amendment of section 2 of Guj. 11 of 2020.- In the principal Act, in section 2, to clause (c), the following proviso shall be and shall be deemed always to have been inserted with effect from the commencement of the principal Act, namely:-

2 of 2007. “Provided that ‘land’ shall not include the land in respect of which applications for grants are pending on the date of commencement of this Act under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;”.

4. Amendment of section 9 of Guj. 11 of 2020.- In the principal Act, in section 9, --

(i) to sub-section (1), the following proviso shall be inserted, namely:-

“Provided that if, in the opinion of the Special Court, any application filed before it is prima facie frivolous or vexatious, it shall reject the same without any further enquiry.”;

(ii) in sub-section (5), for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that he shall neither be called as a witness except on his own request in writing nor shall his failure to give evidence be made the subject of any comment by any of the parties or the Special Court or give rise to any presumption against himself or any person charged together with him at the same proceedings.”;

(iii) to sub-section (7), the following provisos shall be added, namely:-

“Provided that the Special Court shall, by public notice specify the fact of taking cognizance of the case under this Act. Such notification shall state that any objection which may be received by the Special Court from any person within the period specified therein shall be considered by it:

Provided further that the Special Court shall cause a notice of taking cognizance of the case under the Act served on any person known or believed to be interested in the land, after satisfying itself about the persons likely to be interested in the land.”.

5. Insertion of new section 12A in Guj. 11 of 2020.- In the principal Act, after section 12, the following section shall be inserted, namely:-

“12A. Appeals.- (1) Any person aggrieved by a final judgment and order made by the Special Court under this Act may prefer an appeal against such order to the High Court.

(2) A separate appeal shall lie from the judgment and the order made by the Special Court in the civil proceedings or the criminal proceedings respectively under this Act to the High Court.

(3) Every such appeal shall be preferred within thirty days from the date on which the impugned judgment or order was made and the period of thirty days shall be reckoned from the respective date of judgment and order passed in each of the proceedings:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of thirty days, permit the appellant to prefer the appeal within a further period of sixty days.

(4)(i) In deciding appeals from the judgment and order of the Special Court in civil proceedings, the High Court shall exercise all the powers which a civil court has and follow the same procedure which a civil court follows in deciding appeals against the decree of an original court under the Code of Civil Procedure, 1908.

5 of 1908.

(ii) In deciding appeals from the judgment and order of the Special Court determining any criminal liability under this Act in criminal proceedings, the High Court may exercise, so far as may be applicable, all the powers conferred by the chapter XXIX of the Code of Criminal Procedure, 1973 as if the Special Court were a court of sessions trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

(5) On receipt of any such appeal, the High Court shall, after giving the parties to the appeal a reasonable opportunity of being heard, make such order, as it may think fit, confirming, modifying or reversing the order appealed against or remanding the case back with such direction as it may think fit for a fresh order after taking additional evidence, if necessary.”.

STATEMENT

It is considered necessary to amend the Gujarat Land Grabbing (Prohibition) Act, 2020 (Gujarat Act 11 of 2020) to,-

- (i) clarify the definition of “land” so as to exempt therefrom, the land in respect of which applications for grants are pending, on the date of commencement of the said Act, under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2006 ;
- (ii) make a provision for appeals against orders of the special court for providing appeal remedies;
- (iii) stipulate the jurisdiction, procedure and powers of the appellate court; and
- (iv) certain consequential amendments connected therewith or incidental thereto.

As the Gujarat Legislative Assembly is not in session, the Gujarat Land Grabbing (Prohibition) (Amendment) Ordinance, 2022 is promulgated to achieve the aforesaid objects.

Gandhinagar.

Dated the 11th January, 2022.

ACHARYA DEVVRAT,

Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

P SWAROOP,

Secretary to Government.

